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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/833,370 | 04/12/2001 | Jar-Chen Wang | 952.701 | 3129 |

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,370

Applicant(s)

Wang et al.

Examiner

Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 12, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 14-16, 19-21, and 23-32 is/are pending in the application.
- 4a) Of the above, claim(s) 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14-16, 19-21, and 23-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Status of Application

1. Applicant's amendments, filed 6/26/02 and 9/12/02 have been entered in the application. Claims 1, 14-16, 19-21, and 23-32 are pending, claim 32 having been added.

Election/Restriction

2. Newly submitted claim 32 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 32 is directed to a method for operating a vehicle, whereas claims 1, 14-16, 19-21, and 23-31 are directed to a vehicle, the inventions being distinct, for example, in that the method may be practiced with a rider propelled vehicle which does not have a vertical steering shaft which may pivot through 360 degrees.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 32 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

3. Claim 25, as amended, is objected to because of the following informalities: On line 2, "being sized and shaped to permit facilitate..." is informal. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 31, "said safety bumper" lacks a clear antecedent basis.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(f) he did not himself invent the subject matter sought to be patented.

6. Claims 1, 14-16, 19-21 and 23-31 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. The declaration, filed with the application, names inventors Wang and Gu as being the inventive entity of the material in the instant application. Applicant's papers filed with an improper Request for Continued Examination (treated so by the Office as a request for Continued Prosecution would be inappropriate based on the filing date of the instant application) list a different inventive entity, namely inventor Wang. These papers were not entered, in that neither a CPA nor an RCE could be established (for the reasons clearly set forth in paper 14, mailed 6/5/02), however they provide evidence that the inventive entity as currently set forth did not invent the subject matter as set forth in the claims of the instant application.

Claim Rejections - 35 USC § 103

7. Claims 1, 14, 15, 20, 21, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan (US 3,863,950) in view of Chao (US 4,951,958). Jordan teaches a rider propelled vehicle having a frame (3) with a top, bottom, front end, mid section, back end and sides, through which a longitudinal axis may be defined (L-L), including a support wheel assembly (13) mounted to the frame by an attaching means (15), a vertical steering shaft (19) extending through the front end of the frame and oriented vertically (axis S which intersects L-L), the shaft rotatable through 360 degrees, a rider operable steering means (17) at the top of the shaft and a two-wheeled propulsion means (7) located at the bottom, including three corners or ends: a front end (21b) and a pair of side ends (at which wheels 9 are located, being equidistantly spaced from the centerline),

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each wheel rotating in only one direction (figure 5), the frame including a rear safety bumper (25) which will frictionally engage a ground surface if the vehicle is pivoted rearwards, a seating portion (5) which may accommodate a sitting rider, mounted on a seat extension (23), one end of which including the seat, the other end of which being attached to the frame. While the reference of Jordan fails to explicitly teach the use of a detachable connector to connect the propulsion device (21) to the shaft (19) and the seat extension to the frame, the use of fastening bolts is extremely old and very well known, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to connect the seat to the frame, and the shaft and wheel propulsion device together using a bolt, for the purpose of facilitating ease of assembly and disassembly.

The reference of Jordan fails to teach the steering element as able to accommodate a standing rider, and including a plurality of sections telescopically received in one another, such that an inner section is located inside an outer section, the sections lockable to one another. Chao teaches a vehicle having a frame (5) and a steering means (70) comprising plural telescopic shafts (71, 72) wherein an actuator (78) may be used to lock an inner and outer shaft to one another, the inner shaft being sized to fit within the outer shaft. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a telescopic steering shaft which may be raised to accommodate a standing user as taught by Chao, on the steering assembly of Jordan for the purpose of allowing the height of the steering element of Jordan to be adjusted to different user heights and stances.

8. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan in view of Chao and Hwang (US 4,200,304). The references of Jordan and Chao are discussed above and fail to teach a pair of cantilevered foot stirrups or pedals protruding from opposing sides of the steering element to allow back and forth actuation of the steering element by a user's feet. Hwang teaches a riding vehicle (1) including a steering element (2) which is provided with a

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pair of protruding foot stirrups or pedals (3) extending laterally from the steering element (2), and allowing a user to operate the steering element through the user's feet. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a pair of foot actuated pedals or stirrups as taught by Hwang to the vehicle of Jordan as modified by Chao, for the purpose of allowing the cart to be operated by a user's feet in an alternating motion.

Response to Comments

9. Applicant's comments concerning the previously pending rejections under 35 USC §112, second paragraph are noted. The previous rejections under 35 USC §112, second paragraph are withdrawn, although claim 31, as amended, contains a term lacking a clear antecedent basis.

10. Applicant is reminded of the following: (1) due to the filing date of the instant application, a CPA cannot be established, (2) in an RCE, changes to inventorship can be made only via 37 CFR 1.48. Applicant is additionally reminded that Correction of inventorship may also be obtained by the filing of a continuing application under 37 CFR 1.53 without the need for filing a request under 37 CFR 1.48, either in the application containing the inventorship error (to be abandoned) or in the continuing application. The continuing application must be filed with the correct inventorship named therein. The filing of a continuing application to correct the inventorship is appropriate if at least one of the correct inventors has been named in the prior application (35 USC 120 and 37 CFR 1.78(a)(1)). That is, at least one of the correct inventors must be named in the executed oath or declaration filed in the prior application.

11. Claim 32 is withdrawn from consideration and has not been further treated, as set forth above in paragraph 2.

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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;
informal or draft communications may be faxed to the same number but should be
clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as
follows:

703-872-9326 (Official communications)
703-872-9327 (Official After Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
November 14, 2002



11/14/02